Tenants by entirety have each an indivisible interest in the whole. *Jordan* v. *Reynolds*, 105 Md. 288, 66 Atl. 37. See 2 BLACKSTONE, COMMENTARIES, 182. At common law because of the husband's absolute control over the wife's property, both interests were, during his life, vested in him and subject to execution against him. *Bennett* v. *Child*, 19 Wis. 362; *Hall* v. *Stephens*, 65 Mo. 670. Married Women's Acts have altered the situation. Some courts have considered them as abolishing estates by entirety by destroying that fictitious identity of husband and wife on which they rest. *Mittel* v. *Karl*, 133 Ill. 65, 24 N. E. 553; *Robinson, Appellant*, 88 Me. 17, 33 Atl. 652. Others regard them as rendering the interests of tenants by entirety divisible, alienable, and separately subject to execution. *Buttlar* v. *Rosenblath*, 42 N. J. Eq., 651, 9 Atl. 695; *Hiles* v. *Fisher*, 144 N. Y. 306, 39 N. E. 337. In most jurisdictions, however, the nature of the estate has not been changed, but the liberation of the wife's interest from marital control has made it impossible for the husband to deal independently with the estate. *Beihl* v. *Martin*, 236 Pa. St. 519, 84 Atl. 953; *Ashbaugh* v. *Ashbaugh*, 273 Mo. 353, 201 S. W. 72. Nor may execution be levied against his interest since this would prejudice the wife's enjoyment of her identical and entire interest. *Vinton* v. *Beamer*, 55 Mich. 559, 22 N. W. 40; *Harris* v. *Carolina Distributing Co.*, 172 N. C. 16, 89 S. E. 789; *Otto F. Stifel's Brewing Co.* v. *Saxy*, 273 Mo. 159, 172 S. W. 67. The principal case follows this decided trend of authority. But such an interpretation of legislation which aims to abolish economic disabilities once incident to the marriage relation may well be considered too restrictive.

INDEMNITY — JOINT TORT-FEASORS — RECOVERY FROM PARTY PRIMARILY RESPONSIBLE. — On account of the defendant's reckless driving, the plaintiff was forced to turn to the left and drive upon the sidewalk, where he injured one Stock. Stock brought action against both parties and recovered judgment against the plaintiff. The plaintiff seeks to recover indemnity. The defendant moved for judgment on the pleadings. *Held*, that the motion be denied. *Knippenberg* v. *Lord & Taylor*, 183 N. Y. Supp. 72.

Generally speaking the law does not allow indemnity or contribution between joint tort-feasors. *Central of Georgia R. R. Co.* v. *Macon R. R. & Light Co.*, 9 Ga. App. 628, 71 S. E. 1076. *Union Stockyards Co.* v. *Chicago R. R. Co.*, 196 U. S. 217. But there are exceptions which greatly limit this rule. See *Bailey* v. *Bussing*, 28 Conn. 455. See COOLEY, TORTS, 3 ed. 254. One of these, an extension of the doctrine of the last clear chance, allows the tort-feasor who at the time of the injury could not have prevented it to have indemnity from the tort-feasor who could. *Nashua Iron and Steel Co.* v. *Worcester and Nashua R. R. Co.*, 62 N. H. 159. See, *contra*, Francis H. Bohlen, "Contributory Negligence," 21 HARV. L. REV. 233, 292. Another exception allows a tort-feasor whose negligence consisted in some mere failure to perform an affirmative duty to have indemnity from one whose negligence was active. *Fulton County Gas & Elec. Co.* v. *Hudson River Tel. Co.*, 130 App. Div. 644, 114 N. Y. Supp. 642. *Hudson Valley R. R. Co.* v. *Mechanicville Elec. Light & Gas Co.*, 180 App. Div. 86, 167 N. Y. Supp. 428. The principal case does not, as the court suggests, come within the first exception, because the plaintiff's negligence followed that of the defendant. Nor does it come within the second, because the plaintiff was not merely passively negligent. His intervening act contributed to the injury. But this act was defensive against the dangerous situation created by the defendant. On principle it seems that one who thus acts defensively should be entitled to indemnity, even if his defensive act, with respect to a third person, is negligent.

INSURANCE — INSURABLE INTEREST — NECESSITY OF SUCH INTEREST IN SECOND ASSIGNEE WHEN FIRST ASSIGNEE HAS NO INSURABLE INTEREST. — A

took out a life insurance policy payable to his executor and subsequently assigned it to B for value in New York. B sold it to C Bank in Alabama. Neither B nor C Bank had any insurable interest in A's life. A died, A's executor, B and C Bank, each claimed the proceeds of the policy. The insurance company paid the money into court. *Held*, that C Bank is entitled to the proceeds. *Haase* v. *First National Bank of Anniston*, 84 So. 761 (Ala.).

The validity of the successive assignments in this case must be determined by the law of the places where they are made. *Miller* v. *Manhattan Life Insurance Co.*, 110 La. Ann. 652, 34 So. 723; *Lee* v. *Abdy*, L. R. 17 Q. B. D. 309. The first assignment is governed by the law of New York, which does not require any insurable interest in the assignee. *Olmsted* v. *Keyes*, 85 N. Y. 593; *Foryciarz* v. *Prudential Insurance Co.*, 95 Misc. (N. Y.) 306, 158 N. Y. Supp. 834. Therefore B's claim is superior to that of A's executor. The second assignment is governed by Alabama law. And in Alabama an assignment of a life policy by the assured or a beneficiary to one without an insurable interest is void as against public policy. *Helmestad* v. *Miller*, 76 Ala. 183; *Troy* v. *London*, 145 Ala. 280, 39 So. 713. The court assumes that the requirement of an insurable interest is intended to reduce the temptation to kill the assured. Since there is no reason to suppose that succeeding assignees are more likely than B to murder A, the court concludes that the policy does not apply here. But the real purpose of the doctrine is to prevent wager contracts. See 2 JOYCE, INSURANCE, 2 ed., § 894 *a*. The assignment to C Bank is none the less a wager contract because both B and C Bank are without insurable interests. Therefore, the policy does properly apply here to render void the assignment to C Bank, and the proceeds should go to B.

JUDGES — DISQUALIFICATION FOR KINSHIP WITH A PARTY IN INTEREST — ATTORNEY ON A CONTINGENT FEE AS A PARTY IN INTEREST. — The defendant's counsel was a first cousin of the trial judge. By his contract with the defendant he was to receive fifty dollars in any event, and four hundred fifty dollars if the defendant won. A constitutional provision prohibits a judge from presiding at the trial of any cause "where the parties or either of them shall be connected with him by affinity or consanguinity." *Held*, that the judge was not disqualified. *Norwich Union Fire Ins. Co.* v. *Standard Drug Co.*, 83 So. 676 (Miss.).

An attorney has a pecuniary interest in the result of the suit, since he is entitled to the aid of the court in procuring the payment of his fees out of the proceeds of the judgment recovered. *Read* v. *Dupper*, 6 T. R. 361; *Rooney* v. *Second Ave. Ry. Co.*, 18 N. Y. 368. But this alone is not held sufficient to make him a party. *People* v. *Whitney*, 105 Mich. 622, 63 N. W. 765. See *Casmento* v. *Barlow Bros. Co.*, 83 Conn. 180, 182, 76 Atl. 361, 362. On the other hand, the attorney has been held to be a party within the meaning of the statute where his fees are to be paid as part of the judgment, or are to be fixed by the court. *Roberts* v. *Roberts*, 115 Ga. 259, 41 S. E. 616; *Brown* v. *Brown*, 103 Kan. 53, 172 Pac. 1005. In the intermediate case of a contingent fee, most courts hold the attorney to be a party, not distinguishing between contingent fees of a fixed sum, and those which are to be a percentage of the amount recovered. *Johnson* v. *State*, 87 Ark. 45, 112 S. W. 143; *State* v. *Pitchford*, 43 Okla. 105, 141 Pac. 433. The principal case, however, and some others, distinguish these forms of fees, and declare the attorney to be a party only when he is to be paid upon a percentage basis. *Young* v. *Harris*, 146 Ga. 333, 91 S. E. 37. But see *Y. & M. V. Railroad Co.* v. *Kirk*, 102 Miss. 41, 58 So. 710; *Shuford* v. *Shuford*, 141 Ga. 407, 81 S. E. 115. However, the distinction between contingent fees generally, and fixed fees, is clearer, and probably a more satisfactory place to draw the line.